

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Federal-State Joint Board on  
Universal Service

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CC Docket No. 96-45

REPLY COMMENTS OF  
U. S. DISTANCE LEARNING ASSOCIATION

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

The United States Distance Learning Association ("USDLA"), by its undersigned counsel, provide these comments in reply to those initial comments filed in the above referenced proceeding which address the needs of elementary and secondary schools, libraries and health care facilities, as provided in Section 254(b)(6) of the Communications Act (the "Act"). As an organization whose members are dedicated to the electronic delivery of instructional programs to both public institutions and private facilities, USDLA is pleased to recognize the overwhelming support found in the initial comments to advance universal service goals as they relate to distance learning and educational interests.

In these reply comments, USDLA reaffirms its proposal for a phased approach to the introduction of advanced services in schools and libraries, and addresses concerns raised by other commenting parties in this proceeding which warrant

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identification in connection with access to telecommunications services at discounted rates by these public institutions, as well as by qualified health care facilities.<sup>1</sup>

A. The Commission Should Not Delay  
In Implementing Section 254(h)(1)(B) of the Act

A number of commenting parties are of the view that the Commission should not prescribe a discount methodology for access to telecommunications services by eligible schools and libraries until new forces of competition are manifested in the telecommunications marketplace as a result of the implementation of the Telecommunications Act of 1996 (the “1996 Act”).<sup>2</sup> USDLA submits that this position runs contrary to the language and intention of the 1996 Act.

Section 254(h)(1)(B) of the Act states that telecommunications carriers “*shall*” provide services, within the definition of universal service,<sup>3</sup> to certain educational institutions and public libraries “*at rates less than the amounts charged for similar*

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<sup>1</sup> USDLA notes that it has already subscribed to the initial set of comments filed in this proceeding by the National School Boards Association, *et al.* and by the Access to Communications for Education Coalition. In addition, USDLA at this time endorses generally the statement presented by Secretary of Education Richard W. Riley to the Joint Federal-State Board on April 12, 1996, and the initial comments filed on this proceeding by the American Library Association and the American Telemedicine Association on behalf of their respective constituencies.

<sup>2</sup> See Comments of Sprint at 23; Airtouch at 14.

<sup>3</sup> 47 U.S.C. §254 (c)(3).

*services to other parties.*”<sup>4</sup> The Commission has already preliminarily determined that this provision of the Act necessitates that a specific discount methodology be established which entitles eligible schools and libraries to receive discounts on all advanced universal services.<sup>5</sup> In light of these directives, USDLA urges the Commission not to recede from its proposal to prescribe discounts on interstate universal services for schools and libraries, as found in the Notice of Proposed Rulemaking (“NPRM”) in this proceeding.

Numerous statistics have been cited both by the Commission in its NPRM and in the initial comments on the magnitude of the deficiencies in schools and libraries in the area of telecommunications access. By USDLA’s account, only some 15 percent of classrooms in the United States have access to basic, voice-grade, telephone lines and only nine percent of classrooms are connected to Internet services.<sup>6</sup> USDLA suggests that it was because of such poor interconnection statistics that the U.S. Congress determined in the context of the 1996 Act that market forces would not operate to provide

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<sup>4</sup> 47 U.S.C. §254(h)(1)(B).

<sup>5</sup> See In the Matter of Federal-State Joint Board on Universal Service, Notice of Proposed Rulemaking, CC Docket No. 96-45, released March 8, 1996, at 82.

<sup>6</sup> See U.S. Department of Education, Advanced Telecommunications in U.S. Public Elementary and Secondary Schools, 1995 (February 1996), at 3; McKinsey & Co., Connecting K-12 Schools to the Information Superhighway (National Information Infrastructure Advisory Council, 1996), at vi.

all educational institutions, libraries and health care facilities with adequate telecommunications access and services.<sup>7</sup>

While USDLA agrees that competition usually produces a more efficient result than regulation, it recognizes in this case the need for minimal regulatory intervention to protect a compelling social public interest, i.e., education through the country's public institutional telecommunications users. As reflected in its initial comments, USDLA supports at the outset the establishment of minimal telecommunications standards, which for recipient schools and libraries would merely constitute safety net provisions. More advanced services for public institutional telecommunications users would be phased in over the remaining years of this decade. This is in keeping with the 1996 Act's determination that universal service is an evolving concept which warrants periodic revisiting.<sup>8</sup> Under these conditions, commercial telecommunications service providers should not be concerned that universal service regulations will be any more burdensome to their business than market forces, if indeed competition alone would produce at least the same result for schools and libraries.<sup>9</sup>

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<sup>7</sup> In this regard, USDLA takes issue with the suggestion of MFS Communications Company, Inc. in its comments that schools and libraries already have affordable access to the telecommunications infrastructure. Comments of MFS at 20.

<sup>8</sup> 47 U.S.C. §254(c)(1). See Comments of Ameritech at 18; Office of Rural Health Policy at 11; U.S. National Commission on Libraries and Information Science at 14; and Missouri Public Service Commission at 14.

<sup>9</sup> See fn. 2, *supra*.

**B. Universal Service Includes  
More Than Access Benefits**

USDLA believes that universal service should include all instrumentalities that are needed to deliver electronically educational services to schools and libraries and should not be limited to access alone. In this regard, USDLA takes exception to the comments of interested parties which seek to limit the concept of universal service to the provision of a service “line,” i.e., only the interconnection conduit.<sup>10</sup>

USDLA submits that the distinction between service and equipment is an artificial one that, if taken too far, will frustrate the effectiveness of the universal service concept. While USDLA believes that a universal service system for schools and libraries should not dictate the use of any particular technology, it cannot support a simplistic separation between service, on the one hand, and hardware, training or continuing maintenance, on the other. Each of these features should be considered in the universal service definition as separate and necessary cost components, much like the Link Up America universal service program is used in the provision of basic telephone equipment and installation services for qualifying residential telephone customers. USDLA has proposed in its initial comments a discount methodology that includes hardware, related technical services and recurring maintenance services, in addition to access services.

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<sup>10</sup> See Comments of US West at 22; Pacific Telesis at 5; United States Telephone Association at 6-7; and AT&T at 19.

Access alone, as Pacific Telesis notes,<sup>11</sup> constitutes only some 12 percent of the cost of bringing telecommunications services to schools and libraries. To require these institutions to shoulder the remaining 88 percent of the financial burden for telecommunications services from “other sources” would render the objectives of the universal service principle on education unapproachable.

#### C. Certification of Bona Fide Requests for Schools

USDLA reiterates its position that the superintendent of a school district, and not individual school teachers or administrative personnel, should make requests for universal telecommunications services.<sup>12</sup> By elevating requests to the level of the superintendent, school districts can implement a cohesive distance learning program while maintaining a reasonable level of control.

#### D. “Telecommunications Carrier” Should be Broadly Defined Under Section 254(h)

USDLA supports the request of Iowa Communications Network (“ICN”) to be classified as a “telecommunications carrier” for reimbursement purposes under Section 254(h)(1) of the Act. ICN has described itself as a “non-traditional, special purpose” carrier which has been created as an agency of the State of Iowa dedicated to integrating

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<sup>11</sup> Comments of Pacific Telesis at 5.

<sup>12</sup> Compare, Comments of Ameritech at 16.

telecommunications and technology into, inter alia, education and rural health service facilities in that state.<sup>13</sup> The agency owns and operates a fiber optic network which enables it to offer public educational institutions and rural health care facilities advanced telecommunications services at deeply discounted rates. According to ICN's filing with the Commission, the agency has succeeded in providing access to the Internet and other advanced services for a higher proportion of primary and secondary classrooms in Iowa than is the case nationally.

ICN seeks clarification that, notwithstanding its specialized nature, it should be treated as a carrier eligible for universal service support under Section 254(1)(A) and (B). USDLA notes that these provisions in support of advanced telecommunications services for educational facilities, libraries and health care facilities utilize a definition of "telecommunications carrier" different from that called for in Section 254(c) and, in turn, defined in Section 214(e)(1) of the Act.<sup>14</sup> It is submitted that this special definition of "eligible" carrier was created by the Congress, "notwithstanding the provisions of subsection (e) of this section," in order to help ensure that the special needs of "public institutional educational users" would be met, and not thwarted, through a narrow interpretation of "eligible telecommunications carrier." Accordingly, USDLA endorses

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<sup>13</sup> Comments of ICN at 1.

<sup>14</sup> Compare 47 U.S.C. §254(h)(1) with 47 U.S.C. §§214(e)(1), 254(e).

ICN's request for eligibility for universal service reimbursements, and submits further that other such specialized public and private carriers dedicated to support the telecommunications needs of qualified schools, libraries and health care facilities be eligible for recognition in this manner, as well.

On a related point, USDLA also concurs with the view that community colleges and other higher educational institutions participating in the provision of



advanced telecommunications services to public K-12 institutions should be eligible, at least on a pro rata basis, to take advantage of reduced access service charges and other universal service supports for such cooperative use of telecommunications resources.<sup>15</sup>

Respectfully submitted,

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<sup>15</sup> See, e.g., Comments of Alliance for Distance Education in California at 1-2; American Association of Community Colleges at 12-14.

## **CERTIFICATE OF SERVICE**

I, Brigitte L. Adams, hereby certify that the foregoing "*Reply Comments of U.S. Distance Learning Association*" was sent, this 7th day of May 1996, by U.S. first class mail, postage prepaid, to the following:

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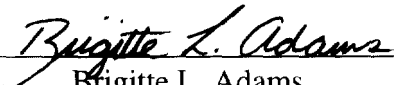
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